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ABSTRACT

There are many barriers to equal access in higher education: finances, selective admissions policies, race, and geography. Though some intensive efforts have been made to recruit minority students, the situation is not much better now than it was 20 years ago. The American higher education system has grown rapidly, but the demands on education have increased even faster. Most institutions have become more selective, and this has produced sharp stratification between levels. Much of the increase in minority group enrollment is accounted for in community colleges, the minority share among freshmen being much higher than among upper classmen. The future of governmental support for minority student programs is in doubt, and there is some uncertainty whether recent trends really reflect net enrollment change or simply describe the reallocation of a static student population, i.e. more blacks in previously all-white schools and more whites in previously all-black schools. Geography is becoming a barrier with private, prestigious institutions seeking national distribution of student populations, and the public schools limiting out-of-state enrollment. Financial considerations may force the private institutions to accept the in-state student with a state scholarship over the out-of-state student who needs financial support from the college. Legal considerations may force the public institutions to eliminate the quotas on out-of-state students. (AF)

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BEYOND THE THRESHOLD:
CHANGING PATTERNS OF ACCESS TO HIGHER EDUCATION

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There is much talk of "universal higher education" these days. The United States is far ahead of any other nation in providing higher learning for its citizens. Yet educational opportunity is far from universal. Half our high school graduates now begin college, but many other youth never graduate from high school. And of those who do matriculate, many drop out long before the baccalaureate. Thus, the more meaningful datum may well be the proportion of college-age youth who are currently enrolled -- roughly one-quarter.

Barriers to Equal Access

Even these overall figures conceal wide variations in educational opportunities. Nearly every student who ranks in the top quarter academically and comes from a middle- or upper-middle-class family will start college. But the prospect is vastly different for youth from the urban ghettoes and slums and the pockets of rural poverty. Christopher Jencks observed several years ago that only about one student of four in the top academic bracket but in the bottom socioeconomic quartile can expect to attend college. Of those who are excluded from higher education for nonacademic reasons, a disproportionate share belong to racial and ethnic minorities.[1] Yet many are Caucasian, and are simply very poor; indeed, educational opportunities may well be more remote today for the Appalachian white than for some ghetto blacks in Northeastern and West Coast cities.

The total capacity of the American system of higher education has grown dramatically in the last quarter-century, but demand for college education has grown even more rapidly. The result has been an increasing selectivity of two sorts: institutions that were already selective have been much more so as the quality of applications has risen; and many institutions that were relatively open in the past have now for the first time become selective. Save perhaps for the public systems of Ohio and a few other states, selectivity is entirely absent only at the bottom and at the fringes of the system -- in the academically marginal proprietary colleges, and in the large urban junior and community colleges. Within large public systems like those of California and New York City the very openness of the system to all residents with a high school diploma has produced sharp stratification between levels and intense selectivity at the top.

These trends have had profoundly important meaning for two dimensions of access -- race and geography. At the most prestigious of the predominantly white institutions, the increasing selectivity in the admissions process operated quite unconsciously to diminish educational opportunities for members of minority groups. In fact, from the postwar period, when the GI bill created educational opportunities for nonwhites, until 1968, these opportunities declined almost steadily. Take the revealing experience of San Francisco State College: In 1959, black enrollment was about 12 percent. A decade later, largely as the result of the rising floor mandated by the California Master Plan, barely 4 percent of the student body was black.[2] Some of those excluded by the new selectivity may have attended junior college for two years, but undoubtedly many others who would have gone to college in the 1950s simply did not go at all in the '60s. Nor is the San Francisco experience unique. John Egerton concluded his exhaustive study of nonwhite enrollments two years ago with the ominous report that minorities, while gaining numerically on the large university campuses between 1940 and the late '60s, had "proportionately slipped further behind." [3]

A variety of factors caused the attenuation of educational opportunity for minority groups. In large part, the barrier has been a financial one: a majority even of those blacks who do reach college come from families with incomes below $6,000, whereas only one-seventh of white students' families are below that level.[4] Even more culpable is continued reliance upon the traditional measures of academic potential -- high school grades and standardized test scores; whether or not these indicia are biased or unfair, their use has surely operated to exclude ever-greater numbers of minority applicants. Of course, the minority experience has not been wholly different in states that adhere to an open-door policy at all state institutions -- though it cannot be pure accident that Ohio State graduated more black Ph.D.s during the 1940s and '50s than any other institution,[5] and that Ohio University today has as many blacks on campus as much larger schools like Berkeley, Madison, and Urbana.[6]

It is not easy to assess blame for the exclusion of the minority student. Surely the predominantly white institutions (save in the Southeast) have not overtly discriminated against the poor, the black, or the Spanish-American. Indeed, in a variety of ways the most prestigious universities have tried to relieve the effects of poverty and discrimination: They have set aside special scholarship funds for disadvantaged students (sometimes unclaimed because there were no applicants). Their schools of education have devoted major energy and talent to improving teaching in the ghetto, barrio, and hill-town classroom. They have established extension centers and branch campuses to bring learning opportunities closer to those who were too poor or too timid to venture far in search of such opportunities. Yet until the last two years, when these efforts were augmented by intensive recruiting programs, massive commitments of financial aid, and explicit admission preferences for minority applicants, the inevitable consequence of increasing selectivity had been a slow but steady rise in the de facto segregation of higher education. Only by becoming color conscious have admission officers been able to reverse the trend.

Access and Race

Even now there is much uncertainty whether that reversal is permanent and substantial. During the past two years, to be sure, minority enrollments have been boosted sharply on many campuses by giving explicit preference to minority applicants. But there are fragile aspects to these impressive gains. First, minority enrollments and the recent increases are found disproportionately at two-year junior and community colleges, from which transfer opportunities remain uncertain. Take the City University of New York as a case in point. Even before

open admissions took effect, total black and Puerto Rican enrollment was over 15 percent. But the students comprising that very impressive minority share have been concentrated in a few community colleges, notably Bronx and New York City. Many more nonwhites than whites were listed as "nonmatriculated," -- a status that cast serious doubt on their degree prospects. When one isolates the fully matriculated students at the four-year colleges of CUNY in 1967-68, he finds that, with the sole exception of Baruch, minority enrollments are about the same as the 4-5 percent typical of other large public universities -- and very far below the nonwhite or Spanish-speaking population of the city.[7] Much the same is the case in California: subtract black and Chicano enrollments at Laney, Compton, Merritt, and East Los Angeles, and the performance of the rest of the system -- save perhaps for Berkeley -- is far less impressive than overall figures would suggest.

Second, the minority share among freshmen is far higher than among upperclassmen. This disparity partially reflects the recency of vigorous recruiting efforts. But it also suggests that many minority students do not transfer from two-year to four-year institutions, and that others drop out along the way even if they matriculate at a degree-granting institution. (Attrition rates for minority students are virtually unavailable. Early in the Upward Bound program, 75 percent of the students dropped out, although the sample was admittedly a special one. ASPIRA reported recently a 60 percent attrition rate for Puerto Rican college students.[8] Other programs -- including the seven-year special admit program at Brown University -- yield much more promising conclusions, but wide differences among selection standards and program content make comparisons difficult.) Most of our current data deal only with matriculation; they reveal only the number of minority students who begin the freshman year. There is an urgent need for measurement of such vital indicia of educational opportunity as retention or attrition rates; transfer rates from two-year to four-year colleges; and reentry rates for those who drop out voluntarily and later wish to return.

Third, the very foundation of these recent gains may be in jeopardy. The future of governmental support for minority student programs is uncertain, as witness the cutbacks in federal work-study and other forms of subvention, and the callous crippling of the California EOP effort. Politically, it seems clear that special programs for minority students are becoming less and less popular. Vice-President Agnew knew his constituency when he charged the University of Michigan with a "callow retreat from reality" for agreeing to work toward a 10 percent black freshman class by 1973. And the Regents of the University of Texas sensed the popular mood last fall in banning further recruitment of any student "who cannot meet the usual academic requirements for admission."

Finally, there is much uncertainty whether recent trends really reflect net enrollment gains or simply describe the reallocation of a static student population. Clearly the percentage of nonwhites on the most prestigious campuses has risen much faster than figures for the entire system. Meanwhile, total enrollments at the predominantly black institutions may not have declined numerically. But there is evidence that some places once held by blacks are now being taken by whites, notably at Howard's graduate schools and at such undergraduate campuses as Lincoln, Bluefield, and West Virginia State where whites have now approached or even passed parity with blacks. Integration of both types of institutions is, or course, an independent value of a very high order. The chance to study and associate with students of a different color might well justify many of the efforts that have been made in recent years. But we must be careful not to claim too much credit for the recruitment efforts of the major white institutions until we know more about the extent of net increase in educational opportunity for the target group.

Whatever the dimensions of the recent gains in educational opportunity for minority students, it seems painfully clear that continued progress demands a continued adherence to explicitly color-conscious admission standards for some part of every freshman class. Many minority students will, of course, be regularly admissible without any ethnic preference. That number should increase steadily as the quality of ghetto and barrio schools improves through desegregation and other efforts, and as newly perceived educational and career opportunities raise the aspirations of disadvantaged youth. Yet a sudden return to the traditional policy of color-blindness in making admission judgments would be disastrous; it would serve only to frustrate the hopes and expectations of many thousands of students for whom college appears for the first time a reality. Thus, color has now become an indelible attribute of that very selectivity in the admissions process that brought the situation to such a critical pass.

Access and Geography

If the matter of race has historically been irrelevant to the admissions decision, the same cannot be said of place or geography. Concern about an applicant's residence has in fact produced sharply divergent trends in the public and private sectors. The private university, anxious to achieve greater diversity in its student body and to earn the designation "national," has eagerly sought students from distant parts of the country and lured nonresidents with special scholarships unavailable to local applicants. Indeed, the geographical diversity of the student body may have become, more than any other single factor, the hallmark of universities like Harvard, Yale, Wesleyan, Stanford, and Chicago -- and the characteristic to which ambitious but less prestigious campuses most consistently aspire.

In the public sector, precisely the opposite trend has marked the most prestigious campuses. The University of Michigan, oldest of the major state universities, drew two-thirds (66 percent) of its students from outside the state a century ago. Gradually the percentage of nonresidents declined, until last year the legislature mandated a harsh quota of 20 percent. If less dramatic, similar trends are found at the other leading public universities. The University of Wisconsin is now under Regental injunction to reduce its out-of-state enrollment to a bare 15 percent of the class entering next fall. Yet almost one-third of the current Madison student body comes from out of state and comprises the largest number of nonresident students at any campus in the country. The nonresident undergraduate enrollment at Berkeley is kept to around 10 percent, not by any rigid quota but by the equally effective device of a sharp differential in high school grades required of in-state and out-of-state applicants. Further, there is no way to tell how many nonresident students are deterred from enrolling by the tuition differentials that exist almost universally in the public sector. Here too the barrier against the nonresident is rising rapidly. From a 1967 base -- an average nonresident fee more than twice that for residents -- out-of-state fees rose in 1968-69 by nearly 10 percent while in-state charges rose only about 3 percent. Last year, the increases were 12 percent and 4 percent respectively.[9]

Hence the anomaly: While private universities have quite consciously become more diverse in matters of geographical representation, the public institutions -- equally consciously if often involuntarily -- are becoming more provincial. There are, of course, other reasons why public systems have become more local in character: the disproportionate increase in enrollments at junior and community colleges, to which most students commute; and the late but rapid growth of public campuses in the traditional "exporting" states of New York, New

Jersey, Massachusetts, and Connecticut. But the central fact remains: the geographical mobility of students who cannot pay private college tuitions or claim large scholarships has been drastically curtailed by the building of high walls in the form of tuition and grade-point differentials and strict nonresident quotas. Meanwhile, the paramount educational concerns of most state legislators -- campus unrest and high costs -- will assuredly push these walls higher in the next five to ten years.

Law and Mobility

There is, however, reason to believe that both trends will soon be reversed by external and largely unforeseen pressures.

Let us consider the private sector. The very institutions that are most nearly "national" in character have made the boldest commitment to minority students; noblesse oblige has guided the reorientation of admissions policies. The demands of large numbers of very poor black and Spanish-speaking students on scholarship and financial aid budgets have already begun to be felt, with some private colleges devoting a third or more of these scarce resources to 4-5 percent of the student body. This redirection of resources may well impair the institution's capacity to attract even middle-class white students from the opposite coast at a time when all costs are rapidly rising. Moreover, even the ablest student from another part of the country may be unable to bring his state-awarded scholarship with him. The New York Regents and the California State Scholarships must, for example, be used within the state, although Pennsylvania, Connecticut and other fellowships are exportable. Thus Columbia may now be forced to reject the brilliant Californian and take in his stead a less-promising New Yorker whose Regents award will free a corresponding share of the school's own resources for the Harlem Black or Puerto Rican already accepted with acute needs. Southern Cal. or Cal. Tech. may have to prefer the B-plus Californian to the A New Yorker for precisely the same reason. These pressures for homogenization in the private sector will continue unless the commitment to minority groups is abandoned or sharply reduced, or unless the respective state legislatures make scholarships generally exportable -- a most unlikely prospect in view of the critical need and the growing demand of the private colleges for indirect subvention from their own states.

If the private universities are to become more provincial in character, the opposite trend seems almost certain in the public sector, though for legal rather than fiscal reasons. Over the years there have been occasional court challenges to nonresident tuition and grade-point differentials, and all have failed. But the situation today appears quite different, and a different outcome predictable, for several reasons. First, no court has sustained a rigid percentage quota on nonresident applications -- a device that absolutely precludes interstate migration rather than simply making it somewhat more expensive. Second, the barriers are much higher now than they have ever been; courts that sustained nonresident differentials in the past found no evidence of any serious deterrent to mobility. (In each case, in fact, the plaintiffs were already in the state and enrolled at the university before bringing suit.) It seems almost certain that the next cases will supply the heretofore missing proof of exclusion or deterrence of students who wish to matriculate away from home.

Third and most important, there have been profound changes in the applicable constitutional law. In the past, the legal challenge to nonresident barriers rested uncertainly on the privileges and immunities clause. There was much doubt whether higher education was even a "privilege" to which the clause applied; rather high standards had been set for invoking the clause at all. Moreover, states have long been permitted to assess a reasonable differential to nonresidents for the use of facilities supported by in-state tax funds -- hunting and

fishing licenses, occupational permits, and the like. Unless the tuition differential far exceeded the resident taxpayer's contribution to the support of the university (which has never been the case) the privileges and immunities argument was doomed to failure.

There is, however, a new element in the constitutional picture. Last year the United States Supreme Court struck down as a denial of equal protection under the Fourteenth Amendment the one-year waiting period which most states imposed on newly arrived applicants for welfare benefits.[10] The Court invoked two central propositions: (1) there was no rational difference, in terms of human need, between the newcomer and the long-term resident; and (2) the interests advanced by the states in support of the distinction -- mainly the desire to cut the costs of welfare programs -- were insufficient to defeat so compelling a claim. In a footnote, the Court expressly reserved for a later time the question of interstate tuition differentials in higher education. Since that decision one lower court in California has found the welfare precedent inapposite, but the facts of the case were rather weak.[11]

The Constitution and the Nonresident Student

The application of this new principle of equality to higher education is not automatic. The Supreme Court made clear in the welfare cases that only abridgment of a "fundamental right" would bring a state-imposed differential under such rigid scrutiny. Presumably the desire to travel between states for pleasure or recreation would not qualify. The need for welfare arises from the individual interest in survival and subsistence. Arguably, no claim to any other form of government largesse is so strong. Yet the courts have already accorded a very high priority to the student's interest in higher education. Two decades ago the Supreme Court declared that one could not be excluded from college because he was black. The lower federal courts have uniformly held that a student may not be expelled from a public institution without a hearing that contains the rudiments of due process. In other judicial contexts -- as disparate as the treatment of educational costs under separation and divorce agreements -- the courts have been building a very firm foundation under the interest in higher learning. Most recently, several courts have ordered that campuses closed during the events of last May should be reopened or kept open to ensure an uninterrupted education for those who wished to study.

Perhaps, therefore, it is already too late in the day for courts to classify higher education at a tax-supported university with sport fishing licenses rather than with welfare benefits. Of course, the newcomer who seeks higher education will not starve if his application is rejected. Yet the long-range consequences may be quite harsh for the nonresident who is turned away, especially for the student who seeks a curriculum or a degree not offered by the public university of his own state. Hence the "fundamental right of interstate movement" on which the Supreme Court premised the welfare decision may well be found by analogy in the student's case.

Moreover, the nonresident quotas and grade-point differentials are more drastic in one respect than welfare waiting periods. The welfare seeker who somehow survived his first year -- living off private charity or the generosity of friends and relatives -- became permanently eligible. By contrast, the Arizona or Oregon student who graduates from high school with a 3.2 average can never get into Berkeley or UCLA, at least not as a freshman. And the Michigan or Illinois resident who applies next fall to Madison after the 15 percent out-of-state quota has been filled is permanently barred. Thus, even if the two interests were not as comparable in importance as they appear to be, these irreversible effects of nonresident barriers would bolster the analogy.

There is, however, another side of the equation. Before a state classification can be held to deny equal protection of the laws, the basis of the distinction must be critically assessed. In the welfare residence case, the Supreme Court concluded that neither the desire to conserve welfare funds nor the wish to get newcomers into the labor force as soon as possible justified the disparate treatment of residents and nonresidents. Here too the case in favor of the out-of-state student seems comparable. The indigent person who migrates to another state is likely to continue to need public support. The contribution he can make to his adopted state is minimal at best; he is never expected to repay past disbursements even if he later becomes self-supporting. Thus, the decision that a state has no constitutionally valid interest in barring indigent migrants is tantamount to saying that the state must accept a potentially permanent drain on its resources because ours is a federal system in which mobility is more highly valued than economy.

The position of the nonresident student is wholly different. President Robben Fleming has recently shown how much and in how many ways such a student may contribute to the state where he attends college or graduate school.[127] In many instances, his higher tuition and fees will in fact cover the incremental costs of his education. Sometimes he will also bring a fellowship or scholarship that will more than pay his keep. If he remains in the state to teach or to practice his profession -- as many do who initially migrate for educational reasons -- his life-long contribution may be incalculable. Meanwhile, residents of the state to which he goes may well wish to study in the state from which he comes; the interest in reciprocity is hard to measure, but surely warrants a higher measure of hospitality than is often found today in the public sector. For all these reasons, President Fleming has concluded that "the net effect of changing the mix to enroll fewer out-of-state students would simply be to make necessary larger appropriations of tax money for the operating budget."

Even if the admission of nonresidents did place a net drain upon the state's resources, it would be far from clear that the Constitution permits the kind of barriers that are now rising so rapidly in the public sector. The strongest case can be made against fixed quotas and the grade-point differentials, for they permanently bar from the state's campuses even those nonresidents who are quite willing to pay the higher tuition and fees. The validity of tuition differentials is more problematical. Typically the barrier operates much like the welfare waiting period: for his first year the student is classed as a nonresident, but thereafter if he remains in the state he is entitled to resident status. Perhaps the best that can be said now is that the interests on both sides seem weaker here than in the welfare context: the claim of the excluded individual is less urgent, and the justification advanced by the state less persuasive. It may be only a matter of time before barriers of all three types are found unconstitutional as the results of test suits that are already in the courts.

What, then, would be the eventual impact of these several trends upon patterns of access to higher education? In the public sector, the easing of interstate migration would make more geographically diverse a group of institutions that are becoming ethnically and racially heterogeneous -- some of them, in fact, returning to a condition that once existed in both respects. For the private university, the consequences are harder to predict. The costly commitment to minority students will undoubtedly reduce geographical diversity. Yet who is to say that the racial mix made possible in its place is not of greater benefit to the institution and the white students who now come from closer by?

Footnotes

1/ Christopher Jencks, "Social Stratification and Higher Education," Harvard Education Review, Spring 1968, pp. 302-8.

2/ Algo D. Henderson, "San Francisco State College: Dissension about Governance and Programs," mimeographed (Berkeley, Calif.: Center for Research and Development in Higher Education, n.d.), p. 3.

3/ John Egerton, State Universities and Black Americans: An Inquiry into Desegregation and Equity for Negroes in 100 Public Universities (Southern Education Reporting Service and National Association of State Universities and Land-Grant Colleges, 1969), p. 93.

4/ David G. Brown, "Allocating Limited Resources," in The Campus and the Racial Crisis, ed. David C. Nichols and Olive Mills (Washington, D.C.: American Council on Education, 1969), p. 97.

5/ Preston Valien, "Improving Programs in Graduate Education for Negroes," Journal of Negro Education, Summer 1967, pp. 238-48.

6/ "Black Enrollments Up in Freshman Classes at State Universities," National Association of State Universities and Land-Grant Colleges, Office of Institutional Research Circular No. 150, April 1, 1970, p. 2.

7/ New York Times, Dec. 15, 1967, p. 53.

8/ New York Times, July 29, 1970, p. 39.

9/ See generally Robert F. Carbone, Resident or Nonresident: Tuition Classification in Higher Education in the States (Denver, Colo.: Education Commission of the States, 1970); Robert C. Braun, "Resident or Nonresident -- Legal or Illegal" (Berkeley, Calif.: Assembly on University Goals and Governance, 1970).

10/ Shapiro v. Thompson, 394 U.S. 618 (1969).

11/ Kirk v. Regents of the University of California, 78 Cal. Rptr. 260 (1969).

12/ Robben W. Fleming, The Exploding Education Picture and the Case for the Out-of-State Student (Detroit, Mich.: Economic Club of Detroit, 1968).